Defense Acquisition University

Acquiring Services Using Multiple Award Instrument Under Section 803

Proper Use–Ordering Procedures

DFARS Case 2001-D017

25 October 2002

Acronyms

- FSS – Federal Supply Schedule
- MAS – Multiple Award Schedules
- MAC – Multi-Agency Contract
- GWAC – Government-Wide Acquisition Contract
- IDIQ – Indefinite Delivery/Indefinite Quantity
- BPA – Basic Purchasing Agreement
- BOA – Basic Ordering Agreement

Proper Use Ordering Procedures for Services

1. Task orders against Federal Supply Schedules
2. Task orders against Federal Supply Schedules requiring a SOW
3. Orders against multiple award contracts, MACs and GWACs
4. Orders against Basic Purchase Agreements
5. Orders Basic Ordering Agreements

PROPER USE
Ordering Procedures for Services

1. Task orders Against Federal Supply Schedules

FSS Task Orders

- Agency may take credit for orders placed against schedules toward small business goals
- Orders >$2500 – Give preference to small business if price is similar
- Minimum documentation is generally all that is required (but make clear the basis of the award decision and that the buyer followed proper procedures)
- Additional documentation is necessary for orders exceeding the micro-purchase threshold when the requirement is limited to a particular brand name

FSS Task Orders

- Orders at or below the micro-purchase threshold (≤ $2,500)
- Orders exceeding the micro-purchase threshold (> $2,500) but not exceeding $100,000
- Orders exceeding $100,000

FSS Task Orders

Orders at or below the micro-purchase threshold (≤ $2,500)

- **Place orders at or below the micro-purchase threshold with any Federal Supply Schedule contractor that provides best value.**

FSS Task Orders

Orders for services exceeding the micro-purchase threshold (> $2,500) but not exceeding $100,000

- **Select “Best Value” provider**
- **Before placing an order, perform market research by considering reasonably available information about the service offered under MAS contracts by using the GSA Advantage on-line shopping service, or by reviewing the catalogs or pricelists of at least three schedule contractors that can perform the work.**

FSS Task Orders

- **Select delivery and other options available under the schedule that meet agency needs.**
- **When selecting the service representing the best value, the ordering office may consider:**

  (1) Special features of the service required for effective program performance;

  (2) Trade-in considerations;

  (3) Probable life of the item selected as compared with that of a comparable item;

  (4) Warranty considerations;

  (5) Maintenance availability;

  (6) Past performance; and

  (7) Environmental and energy efficiency considerations.

FSS Task Orders

- Follow ordering procedures noted for “Above $100,000 orders and before placing an order that exceeds the maximum order threshold:
  - (1) Review additional schedule contractors' catalogs or pricelists or use the GSA Advantage on-line shopping service (market research) to identify which contractors can perform the required work;
  - (2) Based upon the initial evaluation, generally seek price reductions from the schedule contractor(s) appearing to provide the best value (considering price and other factors); and
  - (3) After seeking price reductions, place the order with the schedule contractor that provides the best value and results in the lowest overall cost alternative. If the contractor does not offer further price reductions, you may still place an order if the ordering office determines that it is in the Government's best interest, but document the file and tell the GSA contracting officer about the contractor’s failure to reduce the price.

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Ordering Procedures for Services

2. Task orders Against Federal Supply Schedules Requiring a Statement of Work (SOW)

FSS Task Orders with SOW

- GSA has established special ordering procedures for services that require a SOW.
- GSA has determined that the prices for services contained in the contractor's price list & rates applicable to these schedules are fair and reasonable.
- However, the ordering offices using the schedule are responsible for considering the level of effort and mix of labor proposed to perform a specific task being ordered and for making a determination that the total price is fair and reasonable.

FSS Task Orders with SOW

- When ordering services, ordering offices shall:
  1. Prepare a Request (Request for Quote or other communication tool):
     a. A statement of work (a performance-based statement of work is preferred) that outlines, at a minimum, the work to be performed, location of work, period of performance, deliverable schedule, applicable standards, acceptance criteria, and any special requirements (i.e., security clearances, travel, special knowledge, etc.) should be prepared

FSS Task Orders with SOW

b. The request should include the statement of work and ask the contractors to submit a price to provide the services outlined in the statement of work. The price shall be based on the prices in the schedule contract and shall consider the mix of labor categories and level of effort required to perform the services described in the statement of work. The price of the order should also include any travel costs or other direct charges related to performance of the services ordered, unless the order provides for reimbursement of travel costs at the rates provided in the Federal Travel or Joint Travel Regulations

FSS Task Orders with SOW

c. The request may ask the contractors, if necessary or appropriate, to submit a project plan for performing the task, and information on the contractor's experience and/or past performance performing similar tasks.

d. The request shall notify the contractors what basis will be used for selecting the contractor to receive the order. The notice shall include the basis for determining whether the contractors are technically qualified and provide an explanation regarding the intended use of any experience and/or past performance information in determining technical qualification of responses.

FSS Task Orders with SOW

2. Transmit the Request to Contractors:
   a. For requirements estimated to be under $100,000, based upon an initial evaluation of catalogs and price lists, the ordering office should identify the contractors that appear to offer the best value (considering the scope of services offered, pricing and other factors such as contractors' locations, as appropriate).

FSS Task Orders with SOW

b. For orders over $100,000, the contracting officer must issue the notice to as many schedule holders as practicable, consistent with market research appropriate to the circumstances, to reasonably ensure that offers will be received from at least three contractors that can fulfill the work requirements for consideration for award.; or

c. The contracting officer must forward all schedule holders a notice of intent to make a purchase (by informing them of the opportunity for award, for example, by "pushing" a message out to inform them of the opportunity or posting the opportunity via the "e-buy" GSA site at www.gsaAdvantage.gov)

Market research should be conducted to verify how many schedule holders can do the required work and how many are likely to respond.

- If the contracting officer receives less than 3 proposals, the CO must document why reasonable efforts would not result in more offers. Then the CO may place the order.

FSS Task Orders with SOW

d. Exceptions to the fair opportunity rule are as follows:

- The agency need for the supplies or services is so urgent that providing a fair opportunity would result in unacceptable delays;
- Only one awardee is capable of providing the supplies or services required at the level of quality required because the supplies or services ordered are unique or highly specialized;

FSS Task Orders with SOW

- The order must be issued on a sole-source basis in the interest of economy and efficiency as a logical follow-on to an order already issued under the contract, provided that all awardees were given a fair opportunity to be considered for the original order;
- It is necessary to place an order to satisfy a minimum guarantee; or
- There is a statute that authorizes or requires purchase from a particular source.

e. Ordering offices should strive to minimize the contractors' costs associated with responding to requests for quotes for specific orders. Requests should be tailored to the minimum level necessary for adequate evaluation and selection for order placement. Oral presentations should be considered, when practical.

FSS Task Orders with SOW

3. Evaluate all responses against the factors identified in the request and select the contractor that offers the best value for award.
4. Document the rationale for award in the contract file.

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Ordering Procedures for Services

3. Orders Against multiple award contracts, MACs and GWACs

Orders Against Multiple Award, MACs and GWACs

– General Guidelines

- The contracting officer does not synopsize orders, however, if the order is for services over $100,000, the contracting officer must contact all awardees that can perform the required work.

Orders Against Multiple Award, MACs and GWACs

- Individual orders must clearly describe all services to be performed or supplies to be delivered. Orders must be within the scope, performance period, and maximum value of the contract.
- Performance-based work statements must be used to the maximum extent practicable, if the contract is for services.
- Orders may be placed by using any medium specified in the contract.

Orders Against Multiple Award, MACs and GWACs

- **Orders must contain the following information:**

  (a) Date of order.

  (b) Contract number and order number.

  (c) For supplies and services, contract item number and description, quantity, and unit price or estimated cost or fee.

  (d) Delivery or performance schedule.

  (e) Place of delivery or performance (including consignee).

  (f) Any packaging, packing, and shipping instructions.

  (g) Accounting and appropriation data.

  (h) Method of payment and payment office, if not specified in the contract.

Orders Against Multiple Award, MACs and GWACs

- "**Fair Opportunity**"
  - Ensure use of Multiple Award, MACs, or GWACs does not conflict with requirements of the Federal Acquisition Streamlining Act
  - Each contractor must be given a fair opportunity to get orders beyond the stated minimum
  - CO may exercise broad discretion in developing appropriate order placement procedures, which are part of the contract, and the ordering office must follow those procedures

Orders Against Multiple Award, MACs and GWACs

- CO must give each awardee a fair opportunity to be considered for each order
- This procedure should consider price or cost under each order as one of the factors in the order placement decision and inform contractors of other award criteria, either in the fair opportunity procedures in the contract or in the request to submit an offer for an order
- Additionally, the Contracting Officer should consider past performance on earlier orders, including quality, timeliness and cost control.

Orders Against Multiple Award, MACs and GWACs

- "<u>Fair Opportunity" exceptions:</u>
  - The agency's need is of such unusual urgency that providing an opportunity to all awardees would result in unacceptable delays;
  - Only one awardee is capable of providing due to uniqueness highly specialized nature;
  - The order must be sole-source in the interest of economy and efficiency because it is a logical follow-on to a task or delivery order already issued on a competitive basis; or
  - The order must be placed with a particular contractor to satisfy a minimum guarantee

Orders Against Multiple Award, MACs and GWACs

- Pricing Orders -- If the contract did not establish the price for the supply or service, the contracting officer must establish prices for each order IAW FAR Part 15.4.
- Documentation -- The contracting officer must document in the contract file the rationale for placement and price of each order.

Orders Against Multiple Award, MACs and GWACs

- **Task and Delivery Order Ombudsman**
  - The head of the agency must designate a task-order contract and delivery-order contract ombudsman.
  - The ombudsman must review complaints from contractors and ensure they are afforded a fair opportunity to be considered, consistent with the procedures in the contract.
  - The ombudsman must be a senior agency official who is independent of the contracting officer and may be the agency's competition advocate.

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Ordering Procedures for Services

4. Orders against Basic Purchase Agreements

Orders Against BPAs

Individual orders shall not exceed the simplified acquisition threshold unless:

The acquisition is for a commercial item, in which case the threshold is $5,000,000

There is no limitation for BPAs established with contractors under

Orders Against BPAs

The existence of a BPA does not justify purchasing from only one source

If there is an insufficient number of BPAs to ensure maximum practicable competition, the contracting officer shall solicit other sources

Additional BPAs may be established to facilitate

future purchases if:

1. Recurring requirements seem likely
2. Qualified sources are willing to

Orders Against BPAs

Exception:

- BPAs under Federal Supply Schedules do not follow these rules.
- The Administrator, GSA was given the authority in statute to establish special procedures for Federal Supply Schedule contracts and has done so.
- BPAs under FSS contracts function very much like multiple award IDIQs, provided contracting officers compete any multiple award BPAs at the time they are established.

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Ordering Procedures

5. Ordering Against Basic Ordering Agreements (BOAs)

Orders Against BOAs

- A contracting officer representing any Government activity listed in a basic ordering agreement may issue orders for required supplies or services covered by that agreement.
- Before issuing an order under a basic ordering agreement, the contracting officer shall:
  1. Obtain competition.
  2. If the order is being placed after competition when a ‘suite’ of BOAs was established, ensure that use of the basic ordering agreement is not prejudicial to other offerors.

Orders Against BOAs

3. Complete justifications and approvals and determination and findings, and comply with other requirements, as if the order were a stand-alone contract.
4. Place the order via the form in use locally for orders, incorporating the provisions of the basic ordering agreement by reference;
5. If awarded using other than full and open competition, applicable, cite the applicable Part 6.302 authority in each order.
6. If the order is over $25,000, comply with the synopsis time frames in Part 5.

Orders Against BOAs

- The contracting officer may not authorize the contractor to start work until prices have been established, or :
  1. The basic ordering agreement provides adequate procedures for timely pricing of the order early in its performance period; or

Orders Against BOAs

2. The need for the supplies or services is compelling and unusually urgent (i.e., when the Government would be seriously injured, financially or otherwise, if the contractor does not begin work immediately). The contracting officer must price the work as soon as possible and may not price the entire effort retroactively

Questions?

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